



U.S. Department of Justice

United States Attorney
Southern District of New York

MEMO ENDORSED

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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 9/14/2018

September 14, 2018

BY ECF

The Honorable Valerie E. Caproni
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *United States v. Joseph Percoco, et al.*, S2 16 Cr. 776 (VEC)

Dear Judge Caproni:

The Government respectfully submits a proposed forfeiture order, attached as Exhibit A, in connection with the sentencing of defendant Joseph Percoco, scheduled for September 20, 2018. As set forth in the attached order, the Government seeks forfeiture of \$320,000, representing the proceeds traceable to the offenses for which defendant Joseph Percoco was found guilty at trial before Your Honor, specifically, the \$7,500 per month payments his wife, Lisa Percoco, received from Competitive Power Ventures ("CPV") for 38 months, totaling \$285,000, and the \$35,000 in payments he received from COR Development. These amounts were proven at trial and are reflected, among other places, in Government Exhibits 1603-N¹, 1606A, and 1606B, attached as Exhibit B, C and D.

The parties endeavored to provide the Court a proposed consent order of forfeiture, but were unable to reach agreement on the total forfeiture amount. The Government understands that the defendant consents to forfeiture of \$35,000 of COR payments, but asserts that the payments from CPV should be discounted by some amount of "direct costs incurred in providing the goods or services" pursuant to 18 U.S.C. § 981(a)(2)(B). The Government asserts there are no such "costs" that should be deducted from the forfeitable amount of proceeds Percoco obtained in connection with his crimes because, as supported by the jury's verdict at trial, Lisa Percoco's job itself was provided as part of a *quid pro quo* agreement, and therefore all of her compensation from CPV is proceeds of the CPV-related crimes of which Percoco was convicted -- honest

¹ While the Government does not concede that the reimbursements Lisa Percoco received from CPV, for meals and others items, are not forfeitable, we are not seeking forfeiture of the approximately \$1,596 of reimbursements Ms. Percoco received above and beyond the \$7500/month payments.

services wire fraud conspiracy and bribery solicitation. Accordingly, the Government respectfully requests that the Court enter the attached proposed forfeiture order at sentencing.

No later than **September 17, 2018 at 4:00 p.m.**, Mr. Percoco must respond with a letter explaining his position and a proposed order of forfeiture.

SO ORDERED.



HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE
9/14/2018

Respectfully submitted,

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cc: Counsel for all defendants (via ECF)